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In re Application of
HIRANO, Kenji, et al.
U.S. Application No.: 09/622,424
PCT No.: PCT/JP99/00860
International Filing Date: 24 February 1999
Priority Date: 27 February 1998
Attorney's Docket No.: 3620-4010
For: IMAGE DATA PROCESSING DEVICE AND
PROCESSING METHOD

COMMUNICATION

This application is before the PCT Legal Office for issues arising under 35 U.S.C. 371.

BACKGROUND

On 24 February 1999, applicants filed international application PCT/JP99/00860 which claimed a priority date of 27 February 1998 and which designated the United States. On 02 September 1999, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 14 September 1999, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 28 August 2000 (27 August 2000 was a Sunday).

On 16 August 2000, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a purported translation of the international application into English. The transmittal letter noted that the international application had already been transmitted by the IB.

On 24 October 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required. The Notification also informed applicants that the failure to submit these materials within one month of the date of the Notification would result in abandonment of the application.

On 22 November 2000, applicants filed an executed declaration and a check for the \$130 surcharge.

DISCUSSION

The declaration filed on 22 November 2000 complies with 37 CFR 1.497, and the submission included the required \$130 surcharge. Accordingly, the 22 November 2000 submission constituted a timely and proper response to the Notification Of Missing Requirements mailed 24 October 2000. However, a further review of this application file reveals that the purported translation of the international application into English filed on 16 August 2000 is defective. Specifically, the drawings contain untranslated Japanese text. Applicants have supplied an apparent translation of the text in the drawings, but such translation was not in the required form (i.e., new drawings or translations pasted over the foreign text; see PCT Rule 49.5(d)).

Accordingly, despite filing a timely and proper response to the Notification Of Missing Requirements, applicants have as yet failed to satisfy all the requirements of 35 U.S.C. 371(c).

CONCLUSION

The translation of the international application submitted by applicants is unacceptable for failure to provide translated drawings in the proper form.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for mailing of a new Notification Of Missing Requirements and a Notification Of A Defective Translation indicating that applicants are required to submit: (1) a proper translation of the international application, including translated drawings, and (2) the \$130 processing fee for filing a proper translation later than thirty months after the priority date.



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